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Regulation of lobbying in Brazil – recent developments and prospects

The Brazilian House of Representatives approved on December 19, 2017 a fast-track procedure for the Draft Bill (PL) nº 1202/07, which aims to regulate lobbying activities in Brazil.

Other draft bills currently before the Brazilian Congress also discuss the regulation of lobbying activities – including a proposal for constitutional amendment (PEC) which would allow interest groups to suggest amendments to draft bills. PL nº 1202/07, however, is the one with highest likelihood of approval.

All existing draft bills are based on the assumption that the relationship between representatives and the constituency is inherent to democracy. Proposing and defending interests are rights of the represented, while listening to them and managing pressure groups are duties of the representatives. It is the lack of limits and/or the adoption of unethical or even illegal initiatives that undermine this relationship. A central challenge for the legislator, therefore, is to define limits for the activity when performed in a professional and regulated mode and also to establish standards for transparency and traceability.

The debate around the regulation of lobbying activities in Brazil revolves around two complementary paths. The first one focuses on the relevant professionals and involves many rules such as those relating to the registration of professionals and companies, quarantine periods for certain public agents, periodic reports, accountability rules, strict limits to gifts and hospitality practices, and strict codes of conduct. The second is focused on the activity itself, and seeks to expand transparency, publicity and traceability mechanisms available; for instance, by creating a public agenda of meetings and making the disclosure of documents and proposals received mandatory.

The debate on the draft bill's most recent version contains elements of such suggestions. The original 2007's bill contained strict rules and required, among other aspects, that individuals and companies should be previously registered in the Parliament or administrative body in order to undertake "activities aimed at influencing administrative or legislative decision-making." The most recent version of the draft bill approved by the Committee on Constitution and Justice (CCJ) of the House of Representatives has dropped this requirement.

The regulation of lobbying will certainly be on the Brazilian political agenda of the first semester of 2018. However, there is still a long way ahead before the enactment of new rules. After being approved in the House of Representatives, the draft bill goes to the Senate for renewed discussions.

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